

TESTIMONY OF JEFFREY DESKOVIC

In opposition to HB-5445 and in support of SB-230 and HB-5273

Good Afternoon,

I am grateful for the opportunity to testify today at this hearing. My name is Jeffrey Deskovic, and I served 16 years in prison for murder and rape in New York test despite a negative DNA test 9 months before trial. My conviction was caused in part by a coerced, false confession, the fabrication of other evidence, extreme prosecutorial misconduct, and fraud by the medical examiner. Additionally, my public defender was not too competent.

I was cleared because further DNA testing, long after my appeals had been exhausted, not only reaffirmed my innocence but identified the real perpetrator. Since my release three and half years ago, I have been a criminal justice advocate. I have given over 50 presentations on wrongful convictions across the country, including Harvard University, being the keynote speaker at the 34th annual meeting of the Northeastern Association of Forensic Scientists, and at the first ever International And National Conference on False Confessions and Interrogations.

I have authored over 120 articles on the topic, and lobbied many New York State Elected Officials, testifying at 3 different legislative hearings, also testifying by invitation at the New York State Bar Association's hearing seeking public comment on their preliminary wrongful conviction prevention report. I am currently finishing up a Masters Degree in Criminal Justice at the John Jay College Of Criminal Justice.

I am against HB-5445. As someone who has not only studied the workings of the criminal justice system but experienced it up close and personal I am aware of how wrongful convictions can, and do occur. If New York had capital punishment and I had been 18 years old instead of 16- a difference of a mere two years, and everything else played out exactly as it did, I have no doubt that I would have received the death penalty, because it was a brutal crime, there was community outrage, and I was convicted of rape along with that murder, which often serves an aggravating circumstance making a murder a capital case.

My appeals were exhausted in 2001, and I was not cleared until 2006. There would have been no 2006 for Jeffrey Deskovic. My case is not aberrational nor particular to New York. The same systemic errors that lead to wrongful convictions in New York exist in Connecticut and in all of the states.

Across the country 250 wrongful convictions have been exposed as such by DNA, to say nothing of the many more non-DNA exonerations. Included in the 250 were 3 recent cases in Connecticut in which the defendants were not cleared until after their direct appeals ran out: Miguel Roman, who served 18 ½ years for murder and rape, Kenneth Ireland, who served 19 ½ years for murder and sexual assault, and James Tillman, who served 16 ½ years for sexual assault. The same systemic errors that result in wrongful convictions in non-capital cases exist in capital cases.

There is no "fixing" the death penalty, other than abolishing it all together, because no matter how many reforms are passed aimed at preventing wrongful convictions, in the end the system is operated by human beings, and human beings make mistakes. The only way to be sure that an innocent person is not executed is to abolish the death penalty.

I want to briefly speak about the innocence reforms proposed in SB-230 and HB-5273. I support SB-230 and its provisions to require videotaped interrogations. But this should not be limited to capital and felony cases as it is in this bill; instead, videotaping should be mandatory in all felony and misdemeanor cases. After all, the goal should be to prevent wrongful convictions in all cases.

I also support HB-5273 and its provisions to improve eyewitness identification procedures. I would like to urge you to include some measures not currently in this proposal: A) taking a confidence statement i.e. asking the victim or witness, on a scale of 1 to 10, how confident are you in your identification B) Videotaping the lineup or photo array, so as to ensure its integrity and to make it easier to review.

As someone who was once wrongfully convicted, it is my life's mission to try to prevent other people from experiencing what I experienced by working to bring about legislative reforms. Thank you again for listening to me.

Best,

Jeffrey Deskovic

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